

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.2437 OF 1985

For Approval and Signature

The Hon'ble Mr. Justice S.K. KESHOTE

-
1. Whether reporters of local papers may be allowed to see the judgment ?
 2. To be referred to the reporters or not ?
 3. Whether their lordships wish to see the fair copy of the judgment ?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?
 5. Whether it is to be circulated to the Civil Judge?

SUSHEEL SALES

VERSUS

GENERAL MANAGER, AHMEDABAD TELEPHONES & ANR.

Appearance:

MR NANDLAL THAKKAR for the Petitioner

MR JD AJMERA for the Respondent

Coram: S.K. Keshote,J

Date of decision:13/12/96

C.A.V. JUDGMENT

The petitioner today filed an application for amendment of this Special Civil Application. The application appears to be dated --.11.1993 which has been

corrected as 3.10.96. This application has not been filed for all these years. The application is not supported by the affidavit of the petitioner. Not only this, no reason has been given why the affidavit has not been filed in support of this application. Apart from this, by this proposed amendment, the petitioner wants to incorporate prayer regarding Directory printing charges for the year 1989-90. This is altogether a different and separate cause of action which has arisen much after the filing of this Special Civil Application. The petitioner cannot be allowed to incorporate a cause which is altogether distinct and separate from the case with which the petitioner filed original petition. Moreover, the cause of action which is sought to be pleaded by this amendment application has accrued to the petitioner in the year 1992 and this application has been filed after more than three years. Therefore this proposed amendment application deserves to be dismissed on the aforesaid grounds and the same is dismissed.

2. Heard learned counsel for the parties. The petitioner, a partnership firm, is subscriber of telephone No.383693. The writ petition has been filed by the petitioner for refund of excess amount of Rs.957/-. The petitioner has come up with case that the respondent has made excess billing and consequent thereupon it has to make excess payment.

3. The learned counsel for the respondent contended that the petitioner has filed appeals against excess billing and the appellate authority, after considering the same, has not accepted its claim.

4. I have gone through the order of the appellate authority, annexure 'L' at page 24 wherein the appellate authority has held that in view of the fact that after examining the case of the petitioner in detail, nothing has been found faulty with the metering equipment there is no justification for grant of any rebate in either of the periods. The appellate authority has considered the matter and did not find it to be a case of any fault with the metering equipment. These are the matters which are exclusively in jurisdiction of authorities which are technical expert and the learned counsel for the petitioner is unable to point out any perversity in the said decision. In view of the fact that on merits, I do not find any substance in this Special, the preliminary objection which has been raised by the counsel for the respondent regarding availability of alternative remedy in the matter needs no consideration.

5. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. No order as to costs. Interim relief, granted by this Court stands vacated.

.....

(sunil)